

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #2	CCRB Case #: 201404485	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/06/2014 9:00 PM	Location of Incident: 1078 Castleton Avenue	Precinct: 120	18 Mo. SOL 11/6/2015	EO SOL 11/6/2015	
Date/Time CV Reported Thu, 05/08/2014 1:54 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/08/2014 1:54 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ernan Vega	04893	948153	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Anthony Sciusco	04989	949644	120 PCT
2. POM Eduardo Ochoa	02850	917142	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ernan Vega	Abuse: PO Ernan Vega frisked § 87(2)(b)	
B.POM Ernan Vega	Force: PO Ernan Vega used physical force against § 87(2)(b)	
C.POM Ernan Vega	Abuse: PO Ernan Vega searched § 87(2)(b)'s cell phone.	

Case Summary

On May 6, 2014, at approximately 9:00 p.m., § 87(2)(b) was approached by PO Ernan Vega, PO Eduardo Ochoa and PO Anthony Sciusco of the 120th Precinct for leaving his car idling in front of 1078 Castleton Avenue in Staten Island. When asked for his identification, § 87(2)(b) stated that he would retrieve his identification from the vehicle. PO Vega allegedly frisked § 87(2)(b) before allowing him to enter the car (**Allegation A**). § 87(2)(b) was arrested by PO Vega for § 87(2)(b). While § 87(2)(b) was being transported to the 120th Precinct stationhouse, PO Vega sat in the rear seat next to § 87(2)(b). PO Vega allegedly body-checked § 87(2)(b) in the shoulder repeatedly, causing § 87(2)(b) to hit his head on the door window (**Allegation B**). PO Vega allegedly erased a video that § 87(2)(b) recorded on his cell phone during the incident (**Allegation C**).

Mediation, Civil and Criminal Conviction Histories

This case was not eligible for mediation. As of October 30, 2014, which was after the 90 day deadline for filing a notice of claim, § 87(2)(b) had not filed a notice of claim regarding this incident (encl.9b). [§ 87(2)(b)] [§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been involved in a total of six CCRB complaints, § 87(2)(b)
- PO Vega has been a member of the service for five years and has had two previous CCRB complaints involving seven allegations (encl. 2a). None of the complaints were substantiated § 87(2)(g).

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) alleged that the same officer who frisked him later used force against him in the backseat of the patrol car. PO Vega admitted that he sat in the back seat with § 87(2)(b). PO Vega also matches the description § 87(2)(b) provided of that officer. PO Vega admitted that he had possession of § 87(2)(b)'s cell phone at the 120th Precinct stationhouse and that he accessed the cell phone with § 87(2)(b)'s consent. § 87(2)(g)

Allegations not Pleaded

§ 87(2)(g)

Allegation A - PO Ernan Vega frisked § 87(2)(b)

§ 87(2)(b) alleged that when he was asked for identification, he told the officers that his identification was inside his car. PO Vega allegedly frisked him before allowing him to retrieve his identification from inside his car. PO Vega, PO Sciusco and PO Ochoa all claimed that § 87(2)(b) refused to provide identification and cited that as the reason for arresting him. They

also all deny that any officer frisked § 87(2)(b) until later in the incident when he was under arrest. § 87(2)(b)'s friend § 87(2)(b) did not witness this portion of the incident.

§ 87(2)(g)

Allegation B - PO Ernan Vega used physical force against § 87(2)(b)

§ 87(2)(b) alleged that while seated in the backseat of the patrol car, PO Vega stuck him on the left shoulder with his right shoulder approximately ten times, causing him to hit his head against the door window three or four times. PO Vega and PO Sciusco claimed that § 87(2)(b) hit his own head against the patrol car window after becoming irate. PO Ochoa also claimed that § 87(2)(b) hit his head against the patrol car window, but admitted that he did not see what occurred because he was driving. § 87(2)(b) was treated at § 87(2)(b), where it was noted that § 87(2)(b) complained of, "right sided head pain after he was banging his head to the side of the police car." Although § 87(2)(b) claimed to have been suffering 10 out of 10 on the pain scale, it was also noted that there was no visible external injuries. A CT scan revealed no internal injuries. § 87(2)(b) was given Tylenol and released from the hospital. § 87(2)(g)

Allegation C - PO Ernan Vega searched § 87(2)(b)'s cell phone.

§ 87(2)(b) claimed that he recorded video of the incident on his cell phone. He also claimed that upon the return of his phone from police custody, the video was deleted. § 87(2)(b) could not provide any record of the video's existence or its deletion. PO Vega stated § 87(2)(b) asked him to look inside his cell phone for the phone number of his wife, which he did with § 87(2)(b)'s consent and assistance in front of the front desk. PO Vega denied searching anywhere else in the phone or deleting anything from the phone. Although PO Vega would have had access to § 87(2)(b)'s phone and would have been able to unlock the phone, there was no evidence that any video existed. None of the officers saw § 87(2)(b) recording any video and neither did § 87(2)(b) § 87(2)(g)

Pod: 2

Investigator: _____ Simon Wang _____ 12/31/14
Signature Print Date

Supervisor: _____ _____ _____
Title/Signature Print Date

Reviewer: _____ _____ _____
Title/Signature Print Date

Reviewer: _____ _____ _____
Title/Signature Print Date